

Securities and Exchange Commission

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or more component securities, \$30 million); or

(3) On each trading day of the preceding 6 full calendar months, with respect to a date no earlier than 30 days prior to the commencement of trading such contract:

(i) Such index had at least 9 component securities;

(ii) No component security in such index comprised more than 30 percent of the index's weighting; and

(iii) Each component security in such index was:

(A) Registered pursuant to Section 12 of the Act (15 U.S.C. 78) or was a depositary share representing a security registered pursuant to Section 12 of the Act;

(B) 1 of 750 securities with the largest market capitalization that day; and

(C) 1 of 675 securities with the largest dollar value of trading volume that day.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Definitions.* For purposes of this section:

(1) *Market capitalization* has the same meaning as in § 240.3a55-1(d)(6).

(2) *Dollar value of trading volume* of a security on a particular day is the value in U.S. dollars of all reported transactions in such security on that day. If the value of reported transactions used in calculating dollar value of trading volume is reported in a currency other than U.S. dollars, the total value of each day's transactions shall be converted into U.S. dollars on the basis of a spot rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(3) *Lowest weighted 25% of an index* has the same meaning as in § 240.3a55-1(d)(5).

(4) *Preceding 6 full calendar months* has the same meaning as in § 240.3a55-1(d)(8).

(5) *Reported transaction* has the same meaning as in § 240.3a55-1(d)(10).

[66 FR 44514, Aug. 23, 2001]

§ 240.3a55-3 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

[66 FR 44514, Aug. 23, 2001]

§ 240.3a55-4 Exclusion from definition of narrow-based security index for indexes composed of debt securities.

(a) An index is not a narrow-based security index if:

(1)(i) Each of the securities of an issuer included in the index is a security, as defined in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and section 3(a)(10) of the Act (15 U.S.C. 78c(a)(10)) and the respective rules promulgated thereunder, that is a note, bond, debenture, or evidence of indebtedness;

(ii) None of the securities of an issuer included in the index is an equity security, as defined in section 3(a)(11) of the Act (15 U.S.C. 78c(a)(11)) and the rules promulgated thereunder;

(iii) The index is comprised of more than nine securities that are issued by more than nine non-affiliated issuers;

(iv) The securities of any issuer included in the index do not comprise more than 30 percent of the index's weighting;

(v) The securities of any five non-affiliated issuers included in the index do not comprise more than 60 percent of the index's weighting;

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(vi) Except as provided in paragraph (a)(1)(viii) of this section, for each security of an issuer included in the index one of the following criteria is satisfied:

(A) The issuer of the security is required to file reports pursuant to section 13 or section 15(d) of the Act (15 U.S.C. 78m and 78o(d));

(B) The issuer of the security has a [Worldwide market value of its outstanding common equity held by non-affiliates of \$71 million or more;

(C) The issuer of the security has outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least \$1 billion;

(D) The security is an exempted security as defined in section 3(a)(12) of the Act (15 U.S.C. 78c(a)(12)) and the rules promulgated thereunder; or

(E) The issuer of the security is a government of a foreign country or a political subdivision of a foreign country;

(vii) Except as provided in paragraph (a)(1)(viii) of this section, for each security of an issuer included in the index one of the following criteria is satisfied

(A) The security has a total remaining principal amount of at least \$250,000,000; or

(B) The security is a municipal security, as defined in section 3(a)(29) of the Act (15 U.S.C. 78c(a)(29)) and the rules promulgated thereunder that has a total remaining principal amount of at least \$200,000,000 and the issuer of such municipal security has outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least \$1 billion; and

(viii) Paragraphs (a)(1)(vi) and (a)(1)(vii) of this section will not apply to securities of an issuer included in the index if:

(A) All securities of such issuer included in the index represent less than 5 percent of the index's weighting; and

(B) Securities comprising at least 80 percent of the index's weighting satisfy the provisions of paragraphs (a)(1)(vi) and (a)(1)(vii) of this section; or

(2)(i) The index includes exempted securities, other than municipal securities, as defined in section 3(a)(29) of the

Act and the rules promulgated thereunder, that are:

(A) Notes, bonds, debentures, or evidences of indebtedness; and

(B) Not equity securities, as defined in section 3(a)(11) of the Act (15 U.S.C. 78c(a)(11)) and the rules promulgated thereunder; and

(ii) Without taking into account any portion of the index composed of such exempted securities, other than municipal securities, the remaining portion of the index would not be a narrow-based security index: meeting all the conditions under paragraph (a)(1) of this section.

(b) For purposes of this section:

(1) An issuer is affiliated with another issuer if it controls, is controlled by, or is under common control with, that issuer.

(2) For purposes of this section, *control* means ownership of 20 percent or more of an issuer's equity, or the ability to direct the voting of 20 percent or more of the issuer's voting equity.

(3) The term *issuer* includes a single issuer or group of affiliated issuers.

[71 FR 39542, July 13, 2006]

DEFINITIONS

§ 240.3b-1 Definition of "listed".

The term *listed* means admitted to full trading privileges upon application by the issuer or its fiscal agent or, in the case of the securities of a foreign corporation, upon application by a banker engaged in distributing them; and includes securities for which authority to add to the list on official notice of issuance has been granted.

(Sec. 3, 48 Stat. 884; 15 U.S.C. 78c)

[13 FR 8179, Dec. 22, 1948]

§ 240.3b-2 Definition of "officer".

The term *officer* means a president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any person routinely performing corresponding functions with respect to any organization whether incorporated or unincorporated.

[47 FR 11464, Mar. 16, 1982; 47 FR 11819, Mar. 19, 1982]